

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

IN RE:

TIME OUT PROPERTIES, LLC et al

CASE NO. 24-3435-5-PWM

DEBTOR

CHAPTER 11

**APPLICATION FOR EMPLOYMENT OF
KATHLEEN O'MALLEY AND STEVENS MARTIN VAUGHN & TADYCH,
PLLC AS SPECIAL COUNSEL**

Pursuant to the provisions of §§ 327(a) and 328(a) of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure, the Chapter 11 Trustee, John C. Bircher III (“Trustee”), makes application for an Order approving the employment of KATHLEEN O'MALLEY and the firm of STEVENS MARTIN VAUGHN & TADYCH, PLLC (the “Firm”) as special counsel, and in support of said Application shows the Court as follows:

1. That on or about September 20, 2024, the above captioned Debtors, except for Toppos, LLC, filed a Petition under Chapter 11 and John C. Bircher III was appointed as Trustee on October 25, 2024. The cases were converted to Chapter 7 on February 6, 2025.

2. Toppos filed Chapter 11 on October 5, 2023, and John C. Bircher III was appointed Trustee on December 12, 2023. The case was converted to Chapter 7 on April 30, 2024 and John C. Bircher III was appointed Trustee.

3. The Firm is employed in Toppo's, LLC Chapter 7 case pursuant to Order dated October 3, 2024 (Docket Entry #313).

4. The Firm was previously employed as special counsel in the Debtor's prior Chapter 11 cases.

5. The Trustee would engage the Firm to assist the Trustee in investigation and evaluation of conflicts with affiliated Debtor cases, with other investigative duties as the Trustee deems appropriate, with legal duties associated with the collection and liquidation of estate property as needed, including any transfer of subsidiary assets

and liabilities. The Firm will take direction directly from the Trustee as it relates to its duties.

3. That Firm will be compensated by filing fee applications with the Court pursuant to the Bankruptcy Administrator's guidelines and after approval by the Court.

4. Kathleen O'Malley, as evidenced by and through the attached Verified Statement, believes that she is qualified to serve as special counsel within the meaning of 11 U.S.C. § 327(a).

5. Pursuant to 11 U.S.C. § 327(a), the Trustee believes that the employment of the Firm as special counsel is in the best interest of the estate.

6. The Bankruptcy Court has jurisdiction over this matter pursuant to 28 USC §§ 1334, 151, 157, and this matter is a core proceeding pursuant to 28 USC § 157.

WHEREFORE, the Trustee prays unto the Court as follows:

1. That the Court enter an Order authorizing the Trustee to employ the Firm as special counsel to render the necessary legal services described herein;

2. That the Firm be compensated by filing fee applications with the Court pursuant to the Bankruptcy Administrator's guidelines and after approval by the Court, and,

3. That it have and recover such other and further relief as the Court may deem just and proper.

Dated: 02/07/2025

s/John C. Bircher III
John C. Bircher III
N.C. State Bar No. 24119
DAVIS HARTMAN WRIGHT LLP
209 Pollock Street
New Bern, NC 28560
Telephone: (252) 514-2828
Facsimile: (252) 514-9878
Email: jcb@dhwlegal.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

IN RE:

TIME OUT PROPERTIES, LLC et al

CASE NO. 24-3435-5-PWM

DEBTOR

CHAPTER 11

VERIFIED STATEMENT OF KATHLEEN O'MALLEY

I, Kathleen O'Malley, Attorney, hereby declare that:

1. I am an Attorney and Counselor at Law, duly admitted to practice in the State of North Carolina.

2. Neither I, nor any member of my firm, have any connection with the above named Debtor, its creditors, or with any other party in interest, or their respective Attorneys.

3. I represent no interest adverse to the above captioned Debtor, or its estate in the matters upon which I am to be engaged.

4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on this the 7th day of February, 2025.

s/ Kathleen O'Malley
Kathleen O'Malley
N.C. State Bar No. 51654
2225 West Millbrook Road
Raleigh, NC 27612
919-582-2300
Email: komalley@smvt.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he is over eighteen (18) years of age and the APPLICATION OF EMPLOYMENT OF KATHLEEN O'MALLEY AND STEVENS MARTIN VAUGHN & TADYCH PLLC AS SPECIAL COUNSEL was this day served upon the below named parties electronically as indicated:

Brian Behr
Bankruptcy Administrator, EDNC
(Via CM/ECF)

Richard Preston Cook
Attorney for the Debtor
(Via CM/ECF)

Eric S Pendergraft
Patrick Dorsey
Bradley Shraiberg
Shraiberg Page P.A.
(Via CM/ECF)

Dated: 02/07/2025

s/John C. Bircher III
John C. Bircher III
N.C. State Bar No. 24119
DAVIS HARTMAN WRIGHT LLP
209 Pollock Street
New Bern, NC 28560
Telephone: (252) 514-2828
Facsimile: (252) 514-9878
Email: jcb@dhwlegal.com,